

PUBLIC PURCHASES/PUBLIC WORKS REQUIREMENTS

AUDITORS' FALL
CONFERENCE
2014

PUBLIC WORKS REQUIREMENTS IC 36-1-12

- Definitions
- Public Work-construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or special assessment.
- The term includes the construction, alteration, or repair of a highway, street, bridge, sewer, drain, or other improvement that is paid for out of a public fund or special assessment. The term also includes any public work leased with an option to purchase.
- Public Fund-all funds derived from established revenue sources of a political subdivision and deposited in a general or specific fund.

PROJECTS LESS THAN \$150,000

- Shall invite quotes by mail from at least three persons known to deal in the type of work proposed to be done at least seven days before the time fixed for receiving the quotes.
- Quotes may be taken by fax or by phone if the project is less than \$25,000 and the seven day waiting period would not apply.
- Quotes shall be opened publicly
- Award to lowest responsible and responsive quoter
- Board may reject all quotes
- Special rules for road, street, or bridge projects

PROJECTS LESS THAN \$150,000-USE OF OWN WORKFORCE

- Board may perform the public work without awarding a contract
- Must have staff capable of doing the work
- Cost includes the actual cost of labor, materials, equipment, and rental, use of trucks and heavy equipment owned, and all other expenses
- Projects over \$100,000 to \$149,999-Board must hold a public meeting on the project

ROUTINE PROJECTS LESS THAN \$150,000

- Routine operation, repair, or maintenance or existing structures and buildings may be done using your small purchasing policy procedures under IC 5-22. [IC 36-1-12-4.9]

PROJECTS \$150,000 OR MORE IC 36-1-12-4

- Plans and specifications required
- Resurfacing roads, streets, and bridges
- Advertise twice, at least one week apart, with the second advertisement at least seven days before the bid opening
- Other limits on length of time between first and second advertisement
- Financial statement, statement of experience, proposed plan for performing the work, and equipment available
- General Form No. 96
- Cannot require bidders to submit bids before the public meeting where the bids will be received, opened, and read aloud.

PROJECTS \$150,000 OR MORE [Continued]

- Board shall award the contract to the lowest responsible and responsive bidder
- May reject all bids
- If awarded to someone other than the low bidder, the board minutes must state the factors used to determine which bidder was the most responsible and responsive.
- Non-collusion affidavit

AWARD OF CONTRACT-NOTICE TO PROCEED

- Must be done within sixty days after bid opening[ninety days if financed by a general obligation bond or one hundred fifty days if financed by a revenue bond]

BOND OR CERTIFIED CHECK

IC 36-1-12-4.5

- Required from each bidder on all projects estimated to be more than \$200,000
- Can be required on smaller projects
- Amount may not be set at more than ten percent of the contract price

PAYMENT BOND

IC 36-1-12-13.1

- Required from each bidder on all projects estimated to be more than \$200,000
- Can be required on smaller projects
- Must be equal to the contract price

ESCROW AGREEMENTS

IC 36-1-12-14

- Required on all projects except road, street, and bridge projects over \$200,000 where a contractor subcontracts part of the work
- At the discretion of the contractor, the retainage may be held by the board or placed in an escrow account with a bank, savings and loan, or the State of Indiana
- Limitations-Not more than ten percent nor more than six percent of all work satisfactorily completed until the project is fifty percent complete/Not more than five percent nor less than three percent thereafter.

CHANGE ORDERS

IC 36-1-12-18

- May be issued to add, delete, or change an item in the original contract
- Becomes an addendum to the contract
- Requires approval by board and contractor
- Must be prepared by licensed architect or engineer, if one is assigned to the project
- Total of all change orders cannot exceed twenty percent of the original contract amount
- Change orders issued as a result of circumstances that could not have been foreseen do not increase the scope of the project

PERFORMANCE BOND

- Required on all projects \$200,000 or more
- Must be equal to the contract price
- Can be waived for projects less than \$250,000, but the contractor must then provide an irrevocable letter of credit for the amount of the contract
- Actions against a surety on the bond must be taken within one year after final settlement with the contractor

WAGE SCALE PROVISIONS

IC 5-16-7 AND IC 36-1-12-15

- Must pay common construction wage rates on any project which is \$350,000 or more

DISQUALIFICATION OF CONTRACTORS DEALING WITH IRAN

IC 5-22-16.5 and IC 36-1-12-23

- At the time of the award of a contract, the person awarded the contract must certify in writing that the person is not engaged in investment activities in Iran
- Certification shall be placed in the contract file

PUBLIC BUILDING REQUIREMENTS

IC 36-1-12-7 and IC 36-1-12-10

- All plans and specifications for public buildings must be approved by certain State agencies
- Public work on a building costing more than \$100,000 must be undertaken in accordance with plans and specifications approved by an architect or engineer

EMERGENCIES

IC 36-1-12-9

- Declaration of emergency required
- Once declared, a board may contract for a public work without advertising for bids if bids or quotes are invited from at least two persons known to deal in the public work
- Documentation in minutes is required

DESIGN-BUILD CONTRACTS [IC 5-30]

- Design-builder furnishes architectural, engineering, and related design services plus the labor, materials, and other construction services
- Request for Qualifications
- Technical Review Committee
- RFQ's

FINAL PAYMENT

IC 36-1-12-12

- Withhold until contractor has paid subcontractors, material suppliers, laborers, and those furnishing services.
- Claims should be presented within sixty days after the last work is performed.